

Foreign-Trade Zones Board, Commerce

§ 400.63

nature of the failure to timely pay a fine, to comply with a requirement of the FTZ Act or the Board's regulations or to comply with a prohibition or restriction on activity imposed by an order of the Board or an order of the Commerce Department's Assistant Secretary for Enforcement and Compliance. If the grantee is not one of the responsible parties notified, the Executive Secretary shall also provide a copy of the notification to the grantee. The responsible party(ies) shall be provided a specified period (of not less than 15 days) to respond in writing to the notification;

(2) *Hearing.* If the notified responsible party(ies) or the zone's grantee requests a hearing (or if a hearing is determined to be warranted by the Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance or the Executive Secretary), it shall be held before the Executive Secretary (or a member of the Board staff designated by the Executive Secretary) within 30 days following the request for a hearing (or the determination by the Board, the Commerce Department's Assistant Secretary for Enforcement and Compliance or the Executive Secretary). Parties may be represented by counsel at the hearing, and any evidence and testimony of witnesses in the proceeding shall be presented. A transcript of the hearing shall be produced and a copy shall be made available to the parties;

(3) The Executive Secretary shall make a recommendation on the record of the proceeding not earlier than 15 days after the later of:

(i) The deadline for the party(ies)'s response under paragraph (h)(1) of this section; or

(ii) The date of a hearing held under paragraph (h)(2) of this section; and

(4) The Board or the Commerce Department's Assistant Secretary for Enforcement and Compliance shall deter-

mine whether to instruct CBP to suspend the activated status of the zone operation(s) in question. If the determination is affirmative, the Executive Secretary shall convey the instruction to CBP, with due consideration to allow for the transfer of any affected merchandise from the applicable zone site(s).

(i) *Enforcement of assessment.* Upon any failure to pay an assessed fine, the Board may request the U.S. Department of Justice to recover the amount assessed in any appropriate district court of the United States or may commence any other lawful action.

(j) *Adjustment for inflation.* The maximum dollar value of a fine for a violation of the FTZ Act or the Board's regulations is subject to adjustment for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134).

§ 400.63 Appeals to the Board of decisions of the Assistant Secretary for Enforcement and Compliance and the Executive Secretary.

(a) *In general.* Decisions of the Commerce Department's Assistant Secretary for Enforcement and Compliance and the Executive Secretary made pursuant to this part may be appealed to the Board by adversely affected parties showing good cause.

(b) *Procedures.* Parties appealing a decision under paragraph (a) of this section shall submit a request for review to the Board in writing, stating the basis for the request, and attaching a copy of the decision in question, as well as supporting information and documentation. After a review, the Board shall notify the appealing party of its decision in writing.

PARTS 401-499 [RESERVED]